IN THE HIGH COURT OF JUDICATURE AT BOBBY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 2105 OF 2004

Bankim P. Mehta ..Applicant.

V/s.

Manilal Bhanabhai & Anr. ..Respondents.

Shri Subodh S. Desai for Applicant.
Shri K.R. Shekhawat i/by M/s. Thokare Jariwala & Associates for Respondent No.1.
Shri D.R. More, APP for Respondent -State.

CORAM : A.M.KHANWILKAR, J.
DATED : NOVEMBER 29, 2004

PC :-

. Heard the learned counsel for the parties.

2. Rule. Rule made returnable forthwith, by consent. Shri K.R.Shekhawat waives notice for Respondent No.1. Shri D.R.More, APP waives notice for Respondent No.2 -State. As a short question involved, the petition is taken up for final disposal forthwith by consent.

3. Resopndent No.1 instituted a complaint against the petitioner for offence punishable under section 138 of the Negotiable Instruments Act. The Parties

have amicably settled the dispute. The requisite amount has been made over to Respondent No.1. The counsel for the petitioner has handed over a demand draft for the requisite amount to the counsel for Respondent No.1 in the court, which has been duly accepted by the Respondent No.1. In the circumstances, Respondent No.1 through his counsel submits that he is not interested in pursuing the criminal action against the petitioner. In this peculiar facts and circumstances of the case and in the interest of justice, the appropriate course to my mind, is to quash the criminal action which has been instituted against the petitioner. Accordingly, this petition succeeds in terms of prayer clause (c), which reads thus :-

> This Hon'ble Court be pleased to quash and set aside the Complaint being C.C. No. 927/S/2000 pending before the Ld. Addl.Chief Metropolitan Magistrate, 33rd Court, Bellard Pier, Mumbai.

4. Rule made absolute in the above terms. Ordered accordingly.

. . . . .